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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
IN ADMIRALTY

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In the matter of Action Watersports of Incline Village, LLC, as the owner of the vessel Sierra Cloud, official number 950488, for Exoneration or Limitation of Liability.

No. 2:21-cv-00042-KJM-JDP

ORDER

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Action Watersports of Incline Village, LLC, is the owner of the Sierra Cloud, a boat. *See* Compl. at 1, ECF No. 1. On July 16, 2020, passengers aboard the Sierra Cloud were injured when it hit a submerged rock while attempting to assist another vessel on Lake Tahoe. *See id.* ¶ 5. Action Watersports alleges Lake Tahoe is a navigable waterway between California and Nevada and thus asserts this court's admiralty jurisdiction. *See id.* ¶¶ 1–2. It filed this action for limitation of liability under the Limitation of Shipowner's Liability Act, 46 U.S.C. § 30501 *et seq.*

A primary purpose of the Limitation Act is to create a venue for determining liabilities for "marine casualties" when the value of the claims exceeds the value of the vessel. *Anderson v. Nadon*, 360 F.2d 53, 57 (9th Cir. 1966). It "allows a vessel owner to limit liability for damage or injury, occasioned without the owner's privity or knowledge, to the value of the vessel or the

1 owner's interest in the vessel." *Lewis v. Lewis & Clark Marine, Inc.*, 531 U.S. 438, 446 (2001).  
 2 But the Limitation Act is "not a model of clarity." *Id.* at 447. The Supreme Court found in the  
 3 late Nineteenth Century the Act was "incapable of execution" without "further instructions" and  
 4 thus designed and adopted a set of procedures now found in the Supplemental Rules of  
 5 Admiralty. *See id.* (citing *Norwich & N.Y. Transp. Co. v. Wright*, 13 Wall. 104, 123 (U.S. 1871)).  
 6 Under those rules, the owner of a vessel who wishes to invoke the protections of the Limitation  
 7 Act files an action in federal district court. *See id.* at 447–48. The district court then secures the  
 8 value of the vessel or the owner's interest in the vessel, orders all claimants to appear, and  
 9 "enjoins the prosecution of other actions with respect to the claims." *Id.* at 448. The court  
 10 adjudicates these claims without a jury, determines whether the vessel owner is liable and may  
 11 limit liability, determines the validity of the claims, and distributes the limited fund if appropriate.  
 12 *See id.*

13 Today the applicable rules and procedures are found in Supplemental Admiralty and  
 14 Maritime Claims Rule F. Action Watersports invokes Rule F and moves ex parte for orders  
 15 required by that Rule. That Rule includes four basic requirements. The first requirement is the  
 16 correct venue. When, as here, *see Compl. ¶ 2*, "the vessel has not been attached or arrested to  
 17 answer . . . , and suit has not been commenced against the owner, the proceedings may be had in  
 18 the district in which the vessel may be." Rule F(9). Action Watersports does not allege the Sierra  
 19 Cloud is within this district. Rather, its "home base" is in Nevada. *See Compl. ¶ 2*. The ex parte  
 20 application is thus **denied without prejudice**.

21 Rule F(9) permits the court to "transfer [an] action to any district" for "convenience of  
 22 parties and witnesses" and "in the interest of justice." If venue is "wrongly laid," Rule F(9)  
 23 requires the court to dismiss the action or transfer it to a district in which it could have been  
 24 brought. Action Watersports is thus **ordered to show cause within fourteen days** why this  
 25 action should not dismissed or transferred to the United States District Court for the District of  
 26 Nevada.

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1 This order resolves ECF No. 5.

2 IT IS SO ORDERED.

3 DATED: January 21, 2021.

  
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CHIEF UNITED STATES DISTRICT JUDGE